

Shadows of Universalism: The Untold Story of Human Rights around 1948

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International politics has taught us to regard all claims of universal truths with suspicion. This skepticism need not imply an automatic endorsement of cultural relativism, although it has the tendency of going in that direction—often with predictable outcomes—as evidenced by many of the debates on human rights since War World II and, most notably, by the Asian values debate since the 1990s. To the extent these discussions allow themselves to be shaped by the interminable play of contraries, it seems that universalism cannot but structure—and simultaneously be structured by—its opposites, be it cultural relativism, particularism, or any such terms. One is tempted to say that this is true of almost all arguments of universalism, and we can hardly adopt a stance against them without taking refuge under one of their contraries. Or can we? Even if there is no escaping the logic, the impasse should not deter us from raising a different set of questions. For example, what's at stake when somebody decides to take up a cause for—or against—the universality of human rights?

This question is bound to take us to the politics of universalism—a universalism of human rights—which turns out to be more difficult to

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analyze than it is to generalize about the ubiquitous politics of human rights. The latter, in the wake of the cold war and its aftermath, has been exhaustively studied by historians and political theorists. Among them, Samuel Moyn offers perhaps one of the most compelling critiques to date.¹ In *The Last Utopia*, he rejects the narrative of continuity by distinguishing the recent invention of human rights from the earlier idea of natural rights in European legal and theological traditions on the one hand and from the rights of man in the age of revolutions on the other. Tracing human rights to the rise of new social movements mobilized around this idea and to the American foreign policies based on its principles after the inauguration of President Jimmy Carter in 1977, Moyn remaps the discursive terrains of the discourse of human rights essentially as an American idea—if not an imperial American ideology—that rivaled a number of other ideas and norms that have shaped the modern world, predominantly, anti-colonial self-determination and national sovereignty. This revisionist narrative stresses the role of social movements and their relationship to cold war politics, but the implied proprietary questions—who invented human rights? when and where?—appear to persist in new genealogical guise, even as the universality of the concept itself is being contested.

Not that a proprietary claim—the European invention of *droits de l'homme* and the American reinvention of human rights—is particularly interesting or deserves more attention than universalism. The problem lies precisely in the indeterminacy of where the proprietary ends and where the universal begins; one term invariably turns around to invade the other through a perpetual sleight of hand. The ceaseless rounds of conceptual departures and arrivals—which rarely present themselves to thought—often transform the proprietary claim into the condition of the universal on behalf of (Western) philosophy, historiography, law, political theory, and other branches of knowledge. We have witnessed this conceptual

1. See Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, Mass., 2010).

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move—adroitly transforming who invented X and where? to the truth of X—asserting itself over and over again in the manner of a productive dialectic of general and particular. This dialectic presents us with the second difficulty—the first being the interminable play of opposites—in our attempt to understand the universalism of human rights. Depending on how it is framed and to whom it is addressed, the dialectic of general and particular may well mask some fundamental political situations, past or present, that determine the kinds of questions one may legitimately put to the challenge of universalism.²

And there is the third difficulty in regard to the legibility of the discursive structure of human rights. In the common conceptual play of contraries and mirrors, certainly not without implicit references to the West and the rest, there has been a geopolitical itinerancy of universalism—always with the telos of human progress—that seems oddly transparent to itself, so transparent that one can no longer detect the displaced terms in the fashioning of positive terms—or, in this case, how the concept of human rights as a universal may be related structurally to some other terms, such as *civilized* and *uncivilized*. The displaced terms, as I try to elaborate in my essay, are precisely what allow the politics of human rights and its universal aspirations to be fully operable at some fundamental levels. I call them the shadows of universalism.

The problem is that these shadows are occluded as a rule by the fetishistic focus on positive terms we regularly encounter in the history of ideas, conceptual histories, and keyword studies. Our scholarly preference for positive terms—which I call verbal fetishism—has unfortunately been amplified by keyword studies popularized by Raymond Williams.³ Williams's approach to terms such as *culture* and *civilization* through English,

2. Nick Nesbitt argues that the idea of the rights of man evolved not simply from the European notion of natural rights but through the circulation of ideas and their reinvention under Caribbean colonial conditions. His reframing of the idea in an alternative genealogy suggests the kind of difficulty I am trying to highlight here. See Nick Nesbitt, *Universal Emancipation: The Haitian Revolution and the Radical Enlightenment* (Charlottesville, Va., 2008).

3. The common fallacy of allowing a word—why not two, three, or more words or a half-word and why not grammatical structure—to take the place of a concept without thinking carefully about the one or the other or their relationship goes far beyond keyword studies and seems endemic to humanistic and scientific studies in general. More recently, this verbal fetishism is getting exacerbated by Google's n-gram dataset—also known as Big Data historical research—which simply substitutes word frequencies in printed materials for a record of intellectual ups and downs in a given time period. But it is well known that a universal discrete machine—that is, the computer—can process numerical symbols and letters/words (what Claude Shannon called Printed English) very well, but the machine cannot process human concepts except by reducing them to discrete word units. See Claude Shannon, "Prediction and Entropy of Printed English," "Communication Theory-Exposition of Fundamentals," and

French, and German etymologies cannot but obviate the kind of radical conceptual transformation I set out to study here.⁴ By tracking down the potent shadows of universalism that condition the positive terms of human rights rather than form their opposites, we may be able to identify and analyze the discursive structure of universal human rights in recent history.

In that sense, my essay is an experiment in method, and it is devoted to a tentative formulation of a number of conceptual thresholds in our reflections on universal human rights. What I propose to do is figure out how we may reground the discussion of human rights in a less parochial understanding of the values, limitations, opportunities, and failures of the universal aspirations around the mid-twentieth century. To do that, we must begin by laying the ghost of proprietary genealogy of ideas to rest and reclaim the freedom to explore significant translingual and transcultural meetings of minds and concepts in the multiple temporalities of global history. I would like to reclaim that freedom here in order to explore what the discursive structure of human rights looked like around 1948, how it evolved in the making of the Universal Declaration of Human Rights (UDHR), and where we stand with respect to the future of universalism. If Moyn insists that the making of the UDHR had no more significance than as a minor episode of “diplomatic penmanship” in the hands of a small group of elites at the UN, I argue that such conviction could only have derived from his own disavowal of universalism as a political problem in human rights rather than from any meaningful corroboration by the events on the ground between 1945 and 1950.⁵

In the first section, I examine the internal contradiction of human rights as a universal proposition by exploring the historical gap opened up between the classical (nineteenth-century) standard of civilization in international law and the situated enunciation of human rights. I argue that the reiteration and disavowal of the classical standard of civilization performs one of those political acts that inadvertently reveal the stakes of the uni-

“Information Theory,” *Collected Papers*, ed. N. J. A. Sloane and Aaron C. Wyner (New York, 1993), pp. 294–308.

4. See Raymond Williams, “Culture” and “Civilization,” *Keywords: A Vocabulary of Culture and Society* (New York, 1976), pp. 87–93, pp. 57–60.

5. See Moyn’s essay in this issue. Interestingly, Paul Lauren, who does not share Moyn’s disavowal of universalism as a political problem, begins his study of human rights by quoting Margaret Mead: “Do not make the mistake of thinking that a small group of thoughtful, committed people cannot change the world; indeed, it is the only thing that ever has” (Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* [Philadelphia, 1998], p. 1).

versal as well as the generalized discursive structure of human rights. From this, we learn that the precipitation of human rights to the politics of decolonization and self-determination after 1948 has not been some Third World distortion or hijacking of the wonderful liberal idea of civil and political rights of the individual—as is often alleged by well-meaning scholars—but owes its actualization and political destiny to a prior, violent provocation, a confrontation with the attempted reassertion of the classical standard of civilization.

I then analyze the moment of confrontation itself in the second section, focusing on one of the most acrimonious debates on the floor of the General Assembly in the United Nations. The debate I reexamine took place in the fall of 1950—two years after the UN adopted the UDHR—when the General Assembly began its deliberations on the covenants of the International Bill of Human Rights. In the course of that debate, the exceptionality of the “uncivilized status” of colonial and non-self-governing peoples in international law became a flashpoint: Should “uncivilized” societies—that is, nonsovereign peoples—be prevented from enjoying universal human rights? That question and the storm it triggered amongst the newly independent nations cast a long shadow upon the subsequent unfolding of human rights. It appeared that participants from both sides of the debate understood that the struggle over the right to have human rights was a political struggle fought out on the ground of universalism.

The third and fourth sections of my study center on the figure of P. C. Chang, a Chinese ambassador who rose to prominence in the UN and became one of the principal architects of the UDHR in 1946–48. A passionate critic of cultural relativism and colonialism, Chang resolved to refashion human rights into a universal moral idea and did much to contribute to what many still view as a Western document. Debates on the earlier drafts of the UDHR amply show how Chang attempted a translingual reworking of the plural human within the framework of rights talk. The ground of universalism he fought to reclaim in his capacity as vice chair of the UN Commission on Human Rights was the presumed meeting ground between Confucian moral philosophy and European Enlightenment thought. That precarious ground, however, did not come from nowhere since the idea of the plural human had already been deeply embedded in the development of modern theories of political pluralism and in the human rights activism of prewar China (1927–37). I suggest that this earlier history of global engagement with human rights must also be brought into our rethinking of universalism.

“Civilized Nations”: A Legal Anachronism?

The Statute of the International Court of Justice directs the court to apply “the general principles of law recognized by civilized nations.”⁶ One need not quibble over the exact definition of “civilized nations”—which is prudently left vague—to recognize that the phrase is a remnant of the classical standard of civilization from the era of high colonialism. Gerrit W. Gong, a scholar of international relations, calls this reference “an embarrassing anachronism” because “civilized nations” draws our attention to the sacred trust of civilization practiced by the colonial powers in the nineteenth century and then sanctioned by article 22 of the League of Nations’ mandate system after the First World War.⁷ In my view, this remnant in article 38 is not so much a legal anachronism as an interesting reminder of how the postwar world order was imagined in multiple temporalities. Following the traces of that remnant, we are bound to encounter the language of “sacred trust” itself in article 73 of the UN Charter, which was drafted at the conclusion of the Second World War. It states:

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a *sacred trust* the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories.⁸

In the summer of 1945, when the charter was solemnly pledged by the member states, those who supported the paternalistic sacred trust of article 73 were not going to give up on the colonial mandate without a fight, nor did the member states of the UN foresee the upcoming conflict over the universality of human rights in 1950. The whole issue boils down to this: what logical sense does article 73 make in light of the following article in the same UN charter, which promises to encourage “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” (*UNC*, art. 1)? Does this universalist credo contradict the morality of article 73?

6. Statute of the International Court of Justice, art. 38, 1c, *International Court of Justice: Basic Documents*, www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0&. The International Court of Justice came into existence via the Charter of the United Nations in 1945.

7. Gerrit W. Gong, *The Standard of “Civilization” in International Society* (Oxford, 1984), p. 69.

8. United Nations General Assembly, Charter of the United Nations, art. 73, www.un.org/en/documents/charter/chapter11.shtml; my emphasis; hereafter abbreviated *UNC*.

The answer turns out to be more complicated than we expect. Article 73 dictates the terms of benign rule by colonial powers, granting neither freedoms nor human rights to the colonized. In fact, nothing in the paternalistic language of sacred trust evokes the slightest concern with the freedoms of non-self-governing peoples; instead, the “responsibilities” and “obligation” of colonial administrators toward the well-being of subjugated peoples are reiterated for the purpose of securing a new postwar system of international peace and security. If a potential conflict between the sacred trust of civilization and the universal assertion of human rights existed in 1945, the ground of that conflict did not come into full view until 1950.

Until then, however, the classical standard of civilization and the discourse of human rights would each follow its separate logic and elaborate its own narrative while having very little to say to each other. The norms that had hardened into the standard of civilization in the nineteenth century came into existence during Europe’s expansion into the non-European world. They were codified through the writing of international legal texts and through the treaties signed between European colonial powers and non-European countries.⁹ The rule of extraterritoriality, for example, applied only to “semi-civilized” nations—China, Japan, the Ottomans, and other Asian societies that were classified by international law as semi-civilized—but never to “civilized nations” whose sovereign rights would not admit of such exceptionality as extraterritoriality without undermining the very idea of sovereignty. There were numerous other conditions that entitled sovereign European nationals to the special privileges of a minority in non-European settings so that European life, liberty, dignity, and property would be protected. For that reason, Georg Schwarzenberger asserted in 1955 that “the nexus between Civilisation and International Law is a basic question of international law. At the same time, it may claim to be a current legal problem of the first order.”¹⁰

The practical exigencies of international law—the need to protect the interests of foreign nationals in non-European settings—can sometimes obscure its larger moral and philosophical ambitions. For Henry Wheaton, one of the foremost authors of international legal texts of the nineteenth century, the logic of historical progress is what determines the classical standard of civilization. In *Elements of International Law*, he quotes the argument of Friedrich Karl von Savigny: “the progress of civ-

9. For a recent study of the classical standard of civilization, see Brett Bowden, *The Empire of Civilization: The Evolution of an Imperial Idea* (Chicago, 2009).

10. Georg Schwarzenberger, “The Standard of Civilisation in International Law,” in *Current Legal Problems*, ed. George W. Keeton and Schwarzenberger (London, 1955), p. 212.

ilization, founded on Christianity, has gradually conducted us to observe a law analogous to this in our intercourse with all the nations of the globe, whatever may be their religious faith, and without reciprocity on their part.”¹¹ Turning the progress of civilization into a historical imperative, Wheaton and those who came after him stipulated a logic of progress as well as a set of requirements necessary for any country to be recognized as civilized, hence admissible to the Family of Nations.¹² What did that recognition entail? A “civilized nation” would abrogate the extraterritorial privileges for foreign nationals on its land and terminate unequal treaties to gain full sovereign control over its own people and territory.¹³

Japan came to exemplify this logic and became the first non-European country to gain full recognition as a “civilized nation.”¹⁴ This enhanced status immediately led to the abrogation of extraterritorial privileges for foreign nationals in Japan, the termination of unequal treaties signed with Britain and other great powers, and regaining sovereign control over its own tariffs. Gong astutely observes, “when Japan gained recognition as a ‘civilized’ power by adhering to it, the standard of ‘civilization’ took its place as a universally valid principle, applicable to all non-European countries seeking to enter the Family of Nations as ‘civilized’ states.”¹⁵ Such exception proved the rule and lived up to the self-fulfilling prophecy of universal principles. Thus, when Japan arose to be a signatory to the sacred trust of civilization in article 22 of the Covenant of the League of Nations against the odds of white racism, the country immediately achieved the status of a mandatory power to be granted Class C mandate to administer the South Pacific Trust Mandate.¹⁶

If, as we have seen, the ghost of sacred trust migrated smoothly from article 22 of the Covenant of the League of Nations into article 73 of the UN Charter, what happened to the classical standard of civilization in the post-war world? Has the standard evolved sufficiently to refashion the definition of civilized nations, or has it lost all relevance whatsoever to the

11. Henry Wheaton, *Elements of International Law*, ed. Richard Henry Dana, Jr. (Boston, 1866), pp. 21–22.

12. For my discussion of Wheaton’s *Elements of International Law* (along with its translation in China in 1864 and its subsequent introduction to Japan in 1865), see Lydia Liu, *The Clash of Empires: The Invention of China in Modern World Making* (Cambridge, Mass., 2004), chap. 4.

13. On unequal treaties and the extraterritoriality regime, see Anne Peters, “Unequal Treaties,” in *Oxford Public International Law* (Oxford, 2013), opil.ouplaw.com.

14. For the rise of the discourse of civilization in Japan, see Albert M. Craig, *Civilization and Enlightenment: The Early Thought of Fukuzawa Yukichi* (Cambridge, Mass., 2009).

15. Gong, *The Standard of “Civilization” in International Society*, p. 29.

16. See Thomas W. Burkman, *Japan and the League of Nations: Empire and World Order, 1914–1938* (Honolulu, 2008).

contemporary world? It seems inconceivable that the worldwide catastrophe and social upheavals in the first half of the twentieth century did not significantly damage the credibility of the classical standard of civilization. Jack Donnelly puts it bluntly: “the ‘civilization’ that brought the world the Holocaust, the Gulag, the atom bomb, and two global wars of appalling destructiveness in barely 30 years found it increasingly difficult to suggest that Asians and Africans were too ‘uncivilized’ to join their ranks—especially as the other intellectual supports of imperialism were also crumbling.” Having rejected the classical standard of civilization, Donnelly embraces human rights as a newly updated standard of civilization. He argues that human rights “represent a progressive late twentieth century expression of the important idea that international legitimacy and full membership in international society must rest in part on standards of just, humane or civilized behaviour.”¹⁷ This argument strangely mirrors the moral and philosophical ambitions of the classical standard of civilization, along with its legal mechanisms of inclusion and exclusion with respect to full membership in international society. It is, however, a view widely adopted by those who attempt to refashion the standard of civilization for the contemporary world.¹⁸ Brett Bowden puts this in perspective for us by examining the reinvention of the “sacred trust of civilization” after colonialism. He writes:

Throughout much of history, Europeans thought of themselves as representing the highest stage of that process, and it was a condition that other peoples at various stages of arrested development were encouraged to aspire to. In more recent times, it is the United States that holds itself up as the shining light of progress and civilization, the epitome of a fully developed, individualist, and commercial and consumer society. And to this day it is still argued by many that “traditional” or “underdeveloped” societies still require a good measure of tutelage to help them achieve a similar state of “development.” While much time has passed between the first discoveries of savages which ushered in far-reaching civilizing missions and the more recent identification of traditional societies in need of intervention, much of the accompanying language and the ideas that underpin that intervention remain remarkably familiar.¹⁹

17. Jack Donnelly, “Human Rights: A New Standard of Civilization,” *International Affairs* 74 (Jan. 1998): 12, 21.

18. Christopher Hobson speaks of “democratic entitlement” and argues that democratic governance “has become the benchmark for full international legitimacy” in the post-cold-war world (Christopher Hobson, “Democracy as Civilisation,” *Global Society* 22 [Jan. 2008]: 77, 85).

19. Bowden, *The Empire of Civilization*, p. 157.

Many recent attempts to refashion the norms of human rights into a new standard of civilization for international politics can indeed bear him out. And it is not at all difficult to observe a few structural resemblances between the classical standard and the current standard of civilization. In fact, the universal norms of human rights have acquired sufficient moral and legal legitimacy for them to function in place of a standard of civilization or be instrumentalized by states or imperial powers. Having acknowledged that, I must point out that there are substantial differences to be noted between the classical standard of civilization and the norms of universal human rights, and these differences mark the limitation of any argument of resemblance or generalized continuity.

The most important of those differences is that, unlike the classical standard of civilization, the universalizing of human rights has not been the outcome of one-sided imposition by Europeans and Americans upon the rest of the world after World War II. On the contrary, as I demonstrate in the section to follow, many of the principles within those norms were elaborated and fought out with the participation of Third World thinkers and diplomats, and some of them were categorically asserted *against* the classical standard of civilization. We must keep this important distinction in mind to understand how the norms of human rights emerged and gained universal acceptance in the aftermath of World War II.

Defending Universal Human Rights

For the first time, the idea of civilized nations came under assault in the name of universal human rights within five years of the proclamation of the Statute of the International Court of Justice. Those five years witnessed the drafting of the UDHR and its adoption by the UN General Assembly on 10 December 1948. The moral proclamation of the UDHR was the first of the three key documents that together would become the International Bill of Human Rights in the decades to come.²⁰

On 25 October 1950, the General Assembly opened the fifth session of the Third Committee in Lake Success, New York, to debate the first international covenant on human rights as well as measures of implementation. Britain, France, Belgium, and the Netherlands proposed a special colonial clause to exclude colonial territories and non-self-governing territories from the application of the universal human rights covenants. They justified this clause on the ground of cultural difference and, moreover, by the

20. The other two documents are the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights.

standard of civilization that endorsed those differences. The Belgian delegate Eugène Soudan defended the proposed clause thus:

The colonial clause was intended to prevent the automatic application of a convention to territories for which a signatory State was responsible and was especially justified in the case of multilateral treaties the purpose of which was to prescribe for the contracting parties rules of conduct which, as *they presuppose a high degree of civilization*, were often incompatible with the ideas of peoples who had not yet reached a high degree of development. By imposing those rules on them at once, one ran the risk of destroying the very basis of their society. It would be an attempt to lead them abruptly to the point which *the civilized nations* of today had only reached after a lengthy period of development.²¹

French delegate René Cassin argued in favor of the colonial clause as well. This was perceived as a surprising move because Cassin had been the most ardent defender of universal human rights and had served as a core member of the Commission on Human Rights in the drafting of the declaration. On this occasion, however, acting on the instruction of the French government, he ceased to be an unconditional universalist and warned that the covenant of human rights “would involve transformations that might require several months in metropolitan France but could only be carried out in the overseas territories after a long period of time and then under conditions that might endanger public order, since the peoples would not be ready for such changes. In either case, such measures would run the risk of retarding human progress.”²²

The arguments of Soudan and Cassin during the debate closely followed that of the classical standard of civilization. The familiar notion of a civilized state is evoked here: the degree of development and the degree of civilization are understood as synonymous notions; progress is the historical telos of humanity; and so on. The universalism of human rights is relativized by the standard of civilization so that no less eminent a legal scholar than Cassin could act as both a universalist and a cultural relativist without seeming to contradict himself. This flexible mode of reasoning

21. Third Committee of the UN General Assembly, “Draft First International Covenant on Human Rights and Measures of Implementation (continued),” 25 Oct. 1950, 292nd meeting, summary records, *Official Records of the Fifth Session of the General Assembly* (New York, 1950), p. 133; my emphasis.

22. Third Committee of the UN General Assembly, “Draft First International Covenant on Human Rights and Measures of Implementation (continued),” 26 Oct. 1950, 294th meeting, summary records, *Official Records of the Fifth Session of the General Assembly*, p. 152.

throws interesting light on the relativizing of sovereign rights in the nineteenth century when international law was in the process of being universalized around the globe. As I discussed above, full sovereign rights were granted to “civilized states” whereas extraterritoriality was imposed on “semi-civilized” nations whose sovereign status was nonetheless formally recognized. The remarkable degree of consistency in regard to how a legal authority chooses to universalize or relativize the principles of sovereign rights or how it universalizes or relativizes the norms of human rights makes little sense without reference to the classical standard of civilization. This is how the debate on the colonial clause proceeded at first, and the delegates of Western democracies, mainly colonial powers, embraced cultural relativism, but it was rejected by the overwhelming majority of Third World nations who were staunch advocates of universalism.

For instance, Mahmoud Azmi Bey, the UN delegate from Egypt, commented that the argument of cultural relativism “was only too reminiscent of the Hitlerian concept which divided mankind into groups of varying worth.”²³ Bedia Afnan, the UN delegate from Iraq, asked “how the degree of evolution of a people could prevent it from enjoying the rights which [Cassin] himself had admitted to be inherent in human nature” (“D,” p. 163). Ethiopian delegate Imru Zelleke pointed out: “The fact that certain countries were backward in comparison with others did not justify their exclusion from the covenant. On the contrary, the reason for their backward condition was that their population had for so long been denied the opportunity to enjoy fundamental freedoms.”²⁴ It is interesting that the argument of cultural relativism rarely resonated with the UN delegates of the Afro-Asian bloc, who overwhelmingly endorsed a universalist view of human rights.²⁵

On that occasion, Chang, the UN delegate representing the Republic of China, offered his critique of cultural relativism in an eloquent speech that rebutted every single point raised by the European powers in their defense of the colonial clause. Chang perceived the classical standard of civilization as the principal obstacle and noted its imperial logic and ethnocentrism:

23. Third Committee of the UN General Assembly, “Draft First International Covenant on Human Rights and Measures of Implementation (continued),” 27 Oct. 1950, 296th meeting, summary records, *Official Records of the Fifth Session of the General Assembly*, p. 169; hereafter abbreviated “D.”

24. Third Committee of the UN General Assembly, “Draft First International Covenant on Human Rights and Measures of Implementation (continued),” 26 Oct. 1950, p. 155.

25. This is not to overlook the fact that others like Mahatma Gandhi refused to concern themselves with any rights talk and focused instead on duties and obligations. See Mohandas Gandhi, “A Letter Addressed to the Director-General of UNESCO,” in *Human Rights: Comments and Interpretations*, ed. UNESCO (New York, 1949), p. 18.

The point was, however, that there could surely be no reason to suppose that the people of the territories involved did not desire human rights.

A second argument centered around something that had been dignified by the name of “levels of civilization”. During the rapid growth of empires in the nineteenth century there had been a tendency to equate the terms “imperial growth” and “civilization”. It was then that the word “native” had acquired a new meaning as a designation of non-Europeans, a definition which, he [Chang] feared, might still linger in the minds of some people. Civilization had largely meant European rule. A reaction to that attitude had begun to develop by the early twentieth century and, after two world wars, the world ought to have a different idea of the meaning of civilization. It was true that there were different degrees of technological and other forms of advancement but, as the Charter clearly showed, that did not mean that less-developed areas were to be exploited by outsiders. [“D,” p. 159]

In Chang’s view, the logic of cultural relativism is rooted in the classical standard of civilization. This notion of civilization was used to legitimize imperial expansion and European rule but could no longer justify itself after the world wars. Pushing that observation further, Chang goes on to analyze colonial rule as the source of universal suffering:

Some argued that the administration of Non-Self-Governing Territories was beneficial to the Administering Authority, while others argued that it was a heavy responsibility unselfishly assumed. The responsibility could not be so very heavy, however, for all the nations concerned had been most anxious to assume it. Yet, in a sense, colonial administration was both a burden and a blessing. Apart from the sufferings of the peoples of the Non-Self-Governing Territories and from the benefits accruing to the colonial Powers, the latter also suffered because power corrupted them. The United Nations should help them by ensuring that they were no longer corrupted by such power. The non-inclusion of a colonial clause in the draft convention would be a step in that direction. [“D,” p. 159]

There are some genuine historical insights in Chang’s sarcasm about colonial powers that cannot but suffer the moral consequence of their own abuse of power even as they subjugate colonized people and cause the latter to suffer. Interestingly, this observation corroborates Franz Fanon’s clinical observations about the psychic transformation of the colonial

agent and anticipates Ashis Nandy's diagnosis of psychological injury under colonial rule, a recursive structure of suffering that does not spare the colonizer.²⁶

In the context of Chang's own intervention in the General Assembly debate on human rights, the rejection of the colonial clause was part of a broader mission for the newly founded United Nations. That mission was to put an end to the classical standard of civilization that, as Chang argued, was a main source of suffering and violence in the modern world. While the logical consequence of that argument is a course of future action toward decolonization, it would be misleading, however, to conclude that the argument itself was about national self-determination. Chang's speech was driven by a sense of urgency to reject the standard of civilization, which had relied on a flawed mode of reasoning and remained blind to its own colonial legacy. This sense of urgency suggests a more ambitious vision of the future of international community than the immediate objective of decolonization for individual nations. In short, Chang calls on the United Nations to rework the terms of civilization by rejecting the logic of progress on the one hand and reimagining the ground of moral universals on the other. I will evaluate his contribution in this light below, especially his role in the drafting of the text of the UDHR in 1947–48.

On 2 November 1950 when the majority of UN delegates voted to defeat the colonial clause for the draft covenant on human rights at the UN General Assembly, that historic vote precipitated a political struggle that turned out in retrospect to be crucial to how the standard of civilization and the discourse of human rights converged and became mutually implicated for the first time. Although the outlook of that convergence and mutual implication seemed uncertain at the time, it was clear, though, that the Afro-Asian bloc in the UN was not just bent on the cause of national self-determination, as has been noted by many scholars. Rather, the delegates of those nations wanted to undermine the logic of the sacred trust of civilization and, I must emphasize, for the first time they were forcing the classical standard of civilization into a confrontation with the universalism of human rights. Short of recognizing this historic event, I do not see how we can begin to understand the emergence of a new discursive structure of human rights in the contemporary world.

Not only did an unexpected confrontation take place between the classical standard of civilization and universal human rights in the fall of 1950,

26. See Frantz Fanon, *Black Skin, White Masks*, trans. Charles Lam Markmann (New York, 1967), and Ashis Nandy, *The Intimate Enemy: Loss and Recovery of Self under Colonialism* (Oxford, 1989).

but this extraordinary cataclysm also conditioned the unfolding of a post-war discourse of human rights in a direction where the right to self-determination would be prioritized. Commenting on the escalation of events on that occasion, Moyn writes: "Whether one celebrates or rues this momentous day, the restoration of human rights to the principle of self-determination emphasized their necessary basis in collectivity and sovereignty as the first and most important threshold rights."²⁷ When we analyze the sequence of events, however, we begin to notice that this belated association of human rights with the principle of self-determination is not a matter of restoration as much as a novel political invention out of a series of confrontations between the classical standard of civilization and the discourse of universal human rights. The consequence of that development is open to interpretation as it has always been, but it seems to me that we tend to put far too much emphasis on the compatibility or incompatibility between individual rights and self-determination at the expense of overlooking the far more crucial role that the classical standard of civilization played in the articulation of the very terms of their (in)compatibilities.

Legal historian A. W. Brian Simpson, for example, has questioned the existence of a fundamental connection between human rights and self-determination. His argument that Third World nations in the UN mobilized themselves around human rights in order to achieve the goal of decolonization is well known and shared by many.²⁸ Louis Henkin complained that anticolonialism, like the cold war, colored the human rights covenants and that "self-determination was added to the roster of human rights as an additional weapon against colonialism although there was no suggestion that this was a right of the individual."²⁹ Recent studies begin to complicate this argument and offer alternative interpretations. Roland Burke, for instance, identifies two competing tendencies within the Afro-Asian bloc at the UN, one being the universalist and democratic and the other strictly anticolonial and indifferent to democracy. Rather than dwell on philosophical incompatibilities between individual rights and self-determination, he takes the 1950 struggle for human rights seriously as a political struggle, one that was fought on the ground of universalism and cultural relativism. Granting the truth of Burke's analysis, I wonder how the battle of universalism and cultural relativism could have pushed in the

27. Moyn, *The Last Utopia*, p. 98.

28. See A. W. Brian Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford, 2001), p. 304.

29. Louis Henkin, "The United Nations and Human Rights," *International Organization* 19 (Summer 1965): 513.

direction it did, had the struggle itself not been a concerted repudiation of the classical standard of civilization.

Within one week of the rejection of the colonial clause, the campaign for the inclusion of the right to self-determination in the human rights covenants was launched and quickly gathered momentum. A draft resolution on self-determination was formally presented to the General Assembly on 9 November 1950 and won unanimous support by Arab, African, Asian, some Latin-American states, and all communist representatives. That resolution, which led to the inclusion of the language “all peoples shall have the right of self-determination” in all subsequent covenants on human rights, was passed the next day against the opposition by the colonial powers. This sequence of events implies a causal relationship between the defeat of the colonial clause on 2 November and the proposed draft resolution on self-determination on 9 November 1950. By trying to impose a colonial clause to exclude non-self-governing peoples from the universal applicability of human rights, the European powers taught the rest of the world that universal human rights and self-determination cannot and should not be separated.³⁰

Let us recall that article 1 in the original UN charter asserts the binding principle of self-determination in paragraph 2 and that of human rights in paragraph 3. Since the legal subjects of self-determination are states and nations—although the applicability to nations has always been contested—the principle stipulates its purpose in paragraph 2 as follows: “To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace” (*UNC*, art. 1). This runs parallel to paragraph 3, which, as we have observed earlier, promotes “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.” But neither paragraph is subsumable to the other, for the principle of self-determination was not yet framed as a right to human rights in the UN charter back in 1945.³¹

30. In his study of the Asian-African Conference of Bandung, Burke gives a detailed account of how the language of human rights was incorporated into the Final Communiqué. He points out that many Afro-Asian leaders had suffered at the hands of repressive colonial systems and they understood the meaning of human rights through that experience. Jawaharlal Nehru, one of the principal organizers of the Bandung conference, had been imprisoned seven times by the British. See Roland Burke, *Decolonization and the Evolution of International Human Rights* (Philadelphia, 2010), p. 15.

31. Ariella Azoulay in this issue shows how the fate of the Palestinian refugees was decided in the newly emerging postwar system of international peace and security, pointing out that the UN did not consider the dispossession and expulsion of Palestinians by the State of Israel as a

That being the case, what do we make of the principle of self-determination in the UN charter before its metamorphosis into a human right in 1950? Article 1, paragraph 2 unambiguously states that the maintenance of friendly relations and peace among states is the uppermost concern of that principle, which is fully consistent with the spirit of the 1941 Atlantic Charter and with the Dumbarton Oaks proposals that provided the first blueprint for a new international order after the war.³² When the Atlantic Charter—drafted by President Franklin D. Roosevelt and Winston Churchill and made public on 14 August 1941—proclaimed self-determination as a general standard governing territorial changes and a principle concerning the free choice of rules in every sovereign state (international self-determination), it received, however, a restricted interpretation from Churchill who quickly stated to the House of Commons on 9 September 1941 that the self-determination proclaimed in the Atlantic Charter did not apply to colonial peoples such as India, Burma, and other parts of the British Empire.³³ The colonial exception was cited over and over again whenever the right to self-determination was proposed, and it would be reiterated even when the language of self-determination was absent, as we have seen in the colonial clause debate on the original draft of the human rights covenant.

We learn from Antonio Cassese's study that the draft Charter of the United Nations in 1944 did not contain any mention of the right of self-determination. It was not until after the United Nations Conference on International Organization convened in San Francisco at the end of April 1945 that self-determination was elevated, at the insistence of the USSR, as a major objective of the new world organization and came to be included in the language of the charter. The new provision, however, met with strong resistance among some member states, primarily from the colonial powers. Henri Rolin, the Belgian delegate and a distinguished interna-

case of human rights violation in 1948. This clearly had to do with the struggles among member states in the United Nations. I suspect that it also had something to do with the changing situation of human rights discourse between 1948 and 1950.

32. The right of a nation to self-determination was formulated as early as 1913–1914 in Joseph Stalin's *Marxism and the National Question* (1913) and V. I. Lenin's *The Right of Nations to Self-Determination* (1914). Woodrow Wilson became the foremost champion of the principle of self-determination in the West in 1916. The idea became the popular rallying call of nationalism and independence movements across the Arab world and colonial Asia in World War I and beyond. For a detailed historical assessment, see Ian Brownlie, "An Essay in the History of the Principle of Self-Determination," in *Grotian Society Papers 1968*, ed. C. H. Alexandrowicz (The Hague, 1970), pp. 90–99.

33. See Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge, 1995), p. 37.

tional lawyer, believed that the self-determination of peoples represented “a departure from the traditional State-oriented approach” and would open the door to “inadmissible interventions if, as seems probable, one wishes to take inspiration from people’s right of self-determination in the action of the Organization and not in the relations between the peoples.” Is this a veiled defense of the colonial status quo? Cassese hints at this possible reading but dismisses it out of hand when he goes on to speculate: “it would seem that Belgian delegate did not take into account self-determination as an anticolonial principle.”³⁴ The point is whether a representative of the Belgian government would have endorsed the right of self-determination even if he had taken the anticolonial principle into account. The manner in which the other Belgian delegate, Soudan, represented his government in the colonial clause debate five years later seems to rule out that option.

Clearly, the principle of self-determination did not get incorporated into article 1, paragraph 2 of the UN charter without a struggle. What was the struggle about? It was about the competing visions of a postwar international order in which decolonization and national independence movements would come to play a central role. But not until after the principle of self-determination became embroiled in the ensuing debate on human rights in 1950 did the political stakes of universalism begin to reveal its true face as a worldwide struggle against the reassertion of the classical standard of civilization. The novelty of self-determination as a human right must, therefore, be grasped as a true novelty in that sense. When scholars of human rights like Henkin complain that the rights of the individual became mistakenly subsumed to the priority of anticolonialism and to the goals of national self-determination, they have chosen not to see that the language of self-determination had been absent in the earlier drafts of the international covenant on human rights and remained absent until after the debacle of the colonial clause in 1950. Curiously, the memory of this sequence of events has been suppressed by the majority of advocates and critics of human rights. I wonder whether the disavowal of what happened at Lake Success has not been conducive to the active production of a certain familiar view of human rights since.

The irony is simply this: the classical standard of civilization is what caused the right of self-determination to be written into the covenants as a human right. This chain of events confirms the philosophical insight of Étienne Balibar, who observes in a recent analysis of the politics of human rights:

34. Ibid., p. 39.

The issue of a 'right to have rights' is not to be understood, I think, in terms of a higher level of abstraction (or a transcendental "condition of possibility"), the equivalent of a *Grundnorm* from which all the concrete rights could become deduced, or through which they could become justified, but it should be seen as an immanent practical problem, both institutional and militant, which commands the effective realization of justice within rights.³⁵

The overcoming of injustice was indeed the exigency of that moment at Lake Success. It took aim at the attempted reassertion of the classical standard of civilization by the colonial powers and did so in the name of universal human rights. We are reminded here of W. E. B. Du Bois's essay "Human Rights for All Minorities" in which he argued that universal principles required universal application, and he did so in 1945 in response to the discriminatory terms of the Dumbarton Oaks proposals.³⁶

What did this struggle over human rights entail philosophically? Was there any intellectual substance to the terms of this universalism? These questions were posed by the executive board of the American Anthropological Association as early as 1947 in their famous letter addressed to the UN Commission on Human Rights. The letter responded directly to the drafting of the UDHR as it warned the commission against the biases in favor of Western universalist values. One of the paragraphs in the letter reads: "*Standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole.*"³⁷ This argument seems genuinely relativistic, one that is free from the double dealing of the colonial clause we analyzed above or being driven by any of the imperatives of the classical standard of civilization.

One cannot but be struck by a pluralist vision of universalism the American anthropologists proposed in the letter. They believed that the UDHR could not achieve worldwide applicability until it embraced and recog-

35. Étienne Balibar, "On the Politics of Human Rights," unpublished paper presented at "Human Rights: Foundations and Politics," Goethe-Universität, Frankfurt, 17–18 June 2010.

36. After the war, Du Bois closely followed the work of the UN Commission on Human Rights and continued to reframe racial discrimination as a human rights violation. In October 1947, he drafted the famous NAACP letter "An Appeal to the World: A Statement on the Denial of Human Rights to Minorities in the Case of Citizens of Negro Descent in the United States of America and an Appeal to the United Nations for Redress" to petition the UN to put on its agenda the human rights violations by the United States. See Lauren, *The Evolution of International Human Rights*, pp. 172, 213.

37. The Executive Board, American Anthropological Association, "Statement on Human Rights," *American Anthropologist*, n.s. 49 (Oct.–Dec. 1947): 542.

nized the validity of many different ways of life. Interestingly, the letter challenged the preparation of the draft document of the UDHR in the following terms: "It will not be convincing to the Indonesian, the African, the Indian, the Chinese, if it lies on the same plane as like documents of an earlier period. The rights of Man in the Twentieth Century cannot be circumscribed by the standards of any single culture, or be dictated by the aspirations of any single people."³⁸ This pluralist view of universalism deserves more than passing attention because it bears meaningful connection with Chang's work. Moreover, the letter was directed to the UN Commission on Human Rights on which Eleanor Roosevelt served as the chair and Chang as the vice chair.

Intended or not, the AAA letter was effectively addressed to Chang and other members of the commission that also included the Indonesian, African, Indian, and Filipino members. Their contributions to the drafting of the UDHR were enormous, and they would no doubt have concurred with the AAA that a universalist concept of human rights must not be circumscribed to the standards of a single culture or be dictated by the aspirations of a single people. As vice chair of that commission, Chang took his responsibility seriously and wanted to make sure that the UDHR would be convincing to all.

P. C. Chang: Translating the Plural Human

The UN Commission on Human Rights got off to a troubled start in the spring of 1947. John P. Humphrey, the first director of the UN Secretariat's Division on Human Rights, recalls that Roosevelt undertook the task of formulating a preliminary draft international bill of human rights, working with Chang and the Rapporteur Charles Habib Malik, with the assistance of the secretariat. Roosevelt wanted the work of the drafting committee to begin immediately, so on Sunday, 17 February 1947, she invited Chang, Malik, and Humphrey to meet in her Washington Square apartment for tea. They were discussing the first draft of the UDHR to be prepared by the secretariat when it became clear that Chang and Malik were at loggerheads on almost every single philosophical issue. Humphrey records a snippet of their conversation below:

There was a good deal of talk, but we were getting nowhere. Then, after still another cup of tea, Chang suggested that I put my other duties aside for six months and study Chinese philosophy, after which I

38. Ibid., p. 543. For a recent discussion of this document and the issue of cultural relativism, see Mark Goodale, *Surrendering to Utopia: An Anthropology of Human Rights* (Stanford, Calif., 2009).

might be able to prepare a text for the Committee. This was his way of saying that Western influences might be too great, and he was looking at Malik as he spoke. He had already, in the Commission, urged the importance of historical perspective. There was some more discussion mainly of a philosophical character, Mrs. Roosevelt saying little and continuing to pour tea.³⁹

This seems to be the uncertain first moment of what would become several years of conversations and intellectual debates leading to the birth of the International Bill of Human Rights.

Malik, a Lebanese Christian and Thomist philosopher, had studied philosophy in Europe before World War II, working briefly with Heidegger and completing his doctoral degree in philosophy at Harvard University. A man of strong convictions, Malik's Christian personalism was the main fount of his universalism, but his lifelong passion was anticommunism.⁴⁰ In contrast, Chang was a secular humanist, musician, and a man of letters. Educated in China and the United States, he was bilingual and bicultural. Although Chang and Malik had different upbringings and were steeped in very different intellectual traditions, they joined the UN as scholar-diplomats who both hailed from the non-Western world and saw themselves as bridges between East and West. They were joined by other non-Western members of the eighteen-member UN Commission on Human Rights, including Filipino diplomat Carlos Romulo, Indian feminist educator Hansa Mehta, and Latin American delegates who all made important contributions to the conceptualization of the International Bill of Human Rights.⁴¹ They all worked from the assumption that human rights should be made universal in the widest sense possible.

Chang's appointment as the delegate of the Republic of China to the United Nations began at the San Francisco conference in 1945 when this postwar institution was first established. He quickly became an influential member of the Economic and Social Council (ECOSOC) and one of the initiators of the World Health Organization.⁴² To his colleagues at the

39. John P. Humphrey, *Human Rights and the United Nations: A Great Adventure* (Dobbs Ferry, N.Y., 1984), p. 29.

40. As a minor note, Malik married the first cousin of Edward Said's mother. Said's reminiscences suggest some ambivalent feelings about Malik's politics and personality. See Edward Said, *Out of Place: A Memoir* (New York, 1999).

41. For a study of women's role in the drafting of the UDHR, see Allida Black, "Are Women Human? The UN and the Struggle to Recognize Women's Rights as Human Rights," in *The Human Rights Revolution: An International History*, ed. Akira Iriye, Petra Goedde, and William I. Hitchcock (Oxford, 2012), pp. 133–55.

42. Chang retired from the United Nations in 1952 due to a heart condition and died in 1957.

Commission on Human Rights, he was a formidable intellectual force; as Humphrey noted, “in intellectual stature, he [Chang] towers over any other member of the committee.”⁴³ The said committee is the Third Social and Humanitarian Committee of the General Assembly (the Third Committee) that was charged with debating and approving the final draft of the UDHR sent to the General Assembly. Chang’s work left such a strong imprint on the committee that it led Sumner Twiss to claim that, more than anyone else on the committee, Chang was responsible for imparting a universal rather than a purely Western character to the UDHR.⁴⁴ This observation certainly contradicts the established view that the UDHR is a Western document that promulgates a set of distinctively Western moral and political values of individual rights incompatible with the cultural values of the rest of the world. Yet how distinctively Western is this document? To what extent does the established view—a set of interpretive mechanisms and hermeneutic practices applied to the UDHR since 1948—rely on our collective amnesia to produce and maintain a parochial understanding of the discourse of human rights—such as we have known it since 1977—as *if* human rights were merely a new standard of civilization updating the classical one and *as if* Chang and other non-Western members of the UN had never participated in the crafting of the UDHR precisely to overthrow the classical standard of civilization? I will come back to this point later.

Refashioning human rights into a universal principle—more universal than ever before—was Chang’s stated goal, and he envisioned the ground of that universalism as existing somewhere between classical Chinese thought and European Enlightenment ideas that—as he never tired of pointing out—had crossed paths in the eighteenth century and should cross-fertilize again. Upon his election as the vice chair of the UN Commission on Human Rights, he fought hard to reopen the meeting ground between those radically different philosophical traditions. That ground, in my view, was *intellectually precarious* partly because Chang aimed to achieve something that could hardly be imagined in his own time. And what he did manage to get across through the work of drafting the UDHR has been obliterated from people’s memory by the very anonymity of this document.

Chang (or Zhang Pengchun, in the Pinyin system) sailed to the United

43. Humphrey, *On the Edge of Greatness: The Diaries of John Humphrey, First Director of the United Nations Division of Human Rights*, ed. A. J. Hobbins, 4 vols. (Montreal, 2000), 1:88.

44. See Sumner B. Twiss, “Confucian Contributions to the Universal Declaration of Human Rights: A Historical and Philosophical Perspective,” in *The World’s Religions after September 11*, ed. Arvind Sharma, 4 vols. (Westport, Conn., 2009), 2:153–73.

States at the age of eighteen, enrolled at Clark University, and earned a master's degree in the arts and education at Columbia University's Teachers College (1914–1915). He then taught in China before joining Columbia University again to pursue a doctoral degree in education. His creative talent blossomed in New York, as suggested by the number of plays he wrote or staged during this time, like *The Intruder*, *The Man in Gray*, and *The Awakening*. Interestingly, Chang was the first to stage the drama piece *Mu Lan* (Hua Mulan) in English, which took place at the Cort Theatre on Broadway in 1921, at the invitation of renowned Chinese dramatist Hong Shen “to raise money for famine relief in China, [and the production] was well reviewed by the *Christian Science Monitor* and *The New York Times*.”⁴⁵

Like many of his friends and other academics in the 1930s, Chang's career as educator and playwright came to an abrupt end on 30 July 1937 when his university—Nankai University in Tianjin—was bombed and destroyed by the Japanese military. After fleeing the occupied territory, Chang was sent by the Chinese government to England and the United States to mobilize international support for China's struggle against Japan's imperial aggression. In 1940–1942, he was appointed *envoy extraordinaire* to the neutral country Turkey where he began to take an interest in the reciprocal influences between Arab and Chinese cultures and in the relationship of Confucianism and Islam. In 1942–1945, Chang became the Chinese ambassador to Chile; as World War II drew to a close, his government sent him to the San Francisco conference as the delegate of the Republic of China to help with the founding of the United Nations.

Mary Ann Glendon and Johannes Morsink are among the few historians of human rights who give more than passing attention to Chang's role as vice chair of the UN Commission on Human Rights.⁴⁶ Pierre-Etienne Will researched the records of the Ministry of Foreign Affairs in Taipei and offered a detailed account of Chang's diplomatic mission and his involvement with the Commission on Human Rights in the first decade of the

45. Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York, 2002), p. 147; hereafter abbreviated W. Chang translated numerous European and American dramatic works and collaborated with the Chinese playwright Cao Yu. Chang was the facilitator and interpreter for the Beijing opera superstar Mei Lanfang, who toured America and the USSR in the 1930s. See “Zhang Pengchun nianpu” [A Chronology of P. C. Chang's Life], in *Zhang Pengchun lun jiaoyu yu xiju yishu* [P. C. Chang on Education and the Art of Theatre], ed. Cui Guoliang and Cui Hong (Tianjin, 2004), pp. 615–710.

46. See W. and Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (Philadelphia, 1999), pp. 245–48.

United Nations.⁴⁷ More recently, Twiss's study provides a detailed assessment of Chang's Confucian ideas and philosophical contribution to the document of the UDHR. Whereas Will seems to confine the significance of Chang's work literally to the making of the UDHR document itself, Twiss's probing of the philosophical implications of that work leads to a number of perceptive and inspired insights. I am struck by his argument that Chang engaged in constructive comparative ethics on the Third Committee and that "he self-consciously tried to find normative and conceptual bridges between Confucian moral thought and Western European philosophy in a way that forged new angles of vision on both traditions and how they may learn from each other."⁴⁸ While these reciprocal angles of vision capture Chang's vision well, the precarious conditions of that vision and comparative ethics are worthy of further investigation because of what they can tell us about the shadows of universalism and the evolving discursive structure of human rights in the postwar era.

Records of the drafting processes involving the UDHR indicate that Chang engaged in a relentless negotiation of competing universals between Chinese and European philosophical traditions. His method was a translanguing reworking of ideas across these traditions—a constant movement back and forth—to open up the universal ground for human rights. He did so by crossing the conceptual threshold of languages in the face of an old conundrum of incommensurability: Does the idea of the human in English mean the same thing in a language that does not share its linguistic roots or philosophical traditions?⁴⁹ On the one hand, Chang takes a pragmatic approach to the question of cultural difference and incommensurability in order to bring about consensus among member states on the Commission on Human Rights, and on the other hand—and philosophically more interesting—he makes a wager on commensurability through

47. Pierre-Étienne Will also mentions John C. H. Wu or Wu Jingxiong, who deputized for Zhang at the second session of the Commission in Geneva, and Chung-shu Lo or Luo Zhongshu. See Pierre-Étienne Will, "La Contribution chinoise à la déclaration universelle des droits de l'homme," in *La Chine et la démocratie: Tradition, droit, institutions*, ed. Mireille Delmas-Marty and Will (Paris, 2007), pp. 297–366. Since Chang is better known in China as an educator, playwright, and theatre reformer, a handful of studies published in Chinese are devoted almost exclusively to his career as educator, musician, and playwright in the twenties and thirties rather than as a diplomat. See *Zhang Pengchun lun jiaoyu yu xiju yishu*. See also *Peng Chun Chang, 1892–1957: Biography and Collected Works*, ed. Ruth H. C. Cheng and Sze-Chuh Cheng (privately printed, 1995).

48. Twiss, "Confucian Contributions to the Universal Declaration of Human Rights," p. 113.

49. I have analyzed the relationship between translation and universalism extensively elsewhere. See, for example, *Tokens of Exchange: The Problem of Translation in Global Circulations*, ed. Liu (Durham, N.C., 1999).

a mode of intellectual persuasion and translation that requires an unwavering commitment to the vision of universalism.

The numerous interventions Chang made in the drafting of the UDHR illustrate this process very well. Take article 1 for example. The language of this article reads, "all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" (UN General Assembly, "The UDHR," in *W*, p. 311). This statement is deceptively straightforward; in actuality, the words on the printed page are the outcome of one of the most contentious debates in the Third Committee concerning God and religion. In what is known as the Geneva draft, the draft article states: "All men are born free and equal in dignity and rights. They are endowed *by nature* with reason and conscience and should act towards one another like brothers" (UN General Assembly, "The Geneva Draft: Draft International Declaration of Rights," in *W*, p. 289; my emphasis). The language "by nature" in the Geneva draft was introduced by the Filipino delegate as a deistic reference to natural law. Whereas Malik wanted to substitute the words "by their Creator" for "by nature," other delegates tried to introduce similar references to God in the declaration (see *W*, p. 89). Morsink's study shows that when the Third Committee began its meeting in the fall of 1948, two amendments were proposed to insert overt references to God in article 1. The Brazilian delegation proposed to start the second sentence of article 1 thus: "*Created in the image and likeness of God*, they are endowed with reason and conscience." The Dutch delegation came up with a similar assertion of religious faith: "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family, *based on man's divine origin and immortal destiny*, is the foundation of freedom, justice and peace in the world." These amendments led to intense debates. In the end, neither of the amendments was voted upon, although the Third Committee did vote to remove "by nature" from article 1 (twenty-six to four, with nine abstentions).⁵⁰ Glendon points out that on that occasion it was Chang who, again, "carried the majority by reminding everyone that the declaration was designed to be universally applicable" (*W*, p. 146).

Chang's reasoning was crucial to the decision of the Third Committee to remove the phrase "by nature" from the Geneva draft. He argued that the deletion of that phrase would "obviate any theological question, which could not and should not be raised in a declaration designed to be universally applicable" and he further pointed out that

50. See Morsink, *The Universal Declaration of Human Rights*, p. 287.

The population of his country comprised a large segment of humanity. That population had ideals and traditions different from that of the Christian West. . . . Yet . . . the Chinese representative would refrain from proposing that mention of them should be made in the declaration. He hoped that his colleagues would show equal consideration and withdraw some of the amendments to article 1 which raised metaphysical problems. For Western civilization, too, the time for religious intolerance was over.⁵¹

The first line of article 1, Chang suggested, should refer neither to nature nor to God. Those who believed in God could still find the idea of God in the strong assertions that all human beings are born free and equal and endowed with reason and conscience, but others should be allowed to interpret the language differently. Roosevelt was clearly persuaded by his argument, for she adopted the same language “when she had to explain to her American audience why the Declaration contained no reference to the Creator” (W, p. 147).

Chang urged the Third Committee not to indulge in metaphysical arguments and succeeded in sparing the committee from having to vote on theological questions. Rather than debating human nature again, he asked the committee “to build on the work of eighteenth-century European philosophers.”⁵² From this, Morsink speculates that the motivation behind Chang’s support for the deletion of “by nature” was that some delegates understood the phrase as underscoring a materialistic rather than a spiritual or even humanistic conception of human nature.⁵³ I am more inclined to agree with Twiss’s analysis that Chang’s argument is remarkably consistent with what he had termed “the aspiration for a new humanism.”⁵⁴ This new universalism seeks even to overcome the conceptual opposition between religious and secular and between spiritual and material.

That universalism emerged early on in one of the most interesting and precarious interventions Chang made to the Cassin draft of the UDHR. The Cassin draft was based on the first draft written by Humphrey. Article 1 of the Cassin draft states: “All men, being members of one family are free,

51. Third Social and Humanitarian Committee of the UN General Assembly, “Draft International Declaration of Human Rights (E/800) (continued),” 7 Oct. 1948, ninety-sixth meeting, summary records, *Official Records of the Third Session of the General Assembly* (Lake Success, N.Y., 1948), p. 98.

52. *Ibid.*, p. 114.

53. Morsink, *The Universal Declaration of Human Rights*, p. 287.

54. UN Economic and Social Council, “Discussion of the Report of the Committee on Human Rights,” 14 Mar. 1947, sixty-ninth meeting, fourth session, summary records, www.un.org/depts/dhl/udhr/meetings_1947_4th_esc.shtml, p.111. See also Twiss, “Confucian Contributions to the Universal Declaration of Human Rights,” p. 110.

possess equal dignity and rights, and shall regard each other as brothers” (General Assembly, “The ‘Cassin Draft,’” in *W*, p. 276). On 16 June 1947 when Cassin presented this draft to the drafting committee, the group revised the language of article 1 to read: “All men are brothers. Being endowed with reason and members of one family, they are free and equal in dignity and rights” (quoted in *W*, p. 67). In the course of that discussion, Chang proposed that article 1 should “include another concept” “as an essential human attribute” next to “reason.” He came up with a literal translation of the concept he had in mind, “two-man-mindedness,” an English rendering of the character 仁 read *ren* in Mandarin (*W*, p. 67).⁵⁵ Interpreting *ren* as “two-man-mindedness”—an awkward literal translation—through the discrete parts of the radical 人 for “human” and the written character 二 for the number “two” in the composition of this written character, Chang sought to transform the concept of the human for human rights by regrounding that idea in the originary plurality of humanity rather than in the concept of the individual (see *W*, pp. 67–68).

In his public statement in a General Assembly debate, he explained why he chose to stress the human aspect of human rights rather than rights. This is because “a human being had to be constantly conscious of other men, in whose society he lived. A lengthy process of education was required before men and women realized the full value and obligations of the rights granted to them in the declaration; it was only when that stage had been achieved that those rights could be realized in practice.”⁵⁶ In his understanding, the humanization of men through education must occur prior to their assumption of rights.⁵⁷ This Confucian prioritizing of edu-

55. The common English word-for-word translation of *ren* is “benevolence.” Drawn probably from nineteenth-century missionary James Legge’s translations of Confucian classics, “benevolence” is an extremely loose interpretation of *ren* and misses out on the philosophical richness of “the plural human” in the written character itself. This interesting character is composed of the number “two” and the character “human” as originally glossed by the *Shuowen jiezi* (100 CE), the first dictionary of Chinese written characters compiled by the Han dynasty lexicographer Xu Shen (ca. 58–ca. 147 CE). Chang’s paleographic reading of the written character for *ren* also derives precisely from the *Shuowen jiezi*.

56. Third Social and Humanitarian Committee of the UN General Assembly, “Draft International Declaration of Human Rights (E/800) (continued),” 2 Oct. 1948, ninety-first meeting, summary records, *Official Records of the Third Session of the General Assembly*, p. 48. An excerpt of this summary is reprinted as Chang, “Chinese Statements during Deliberations on the UDHR (1948),” in *The Chinese Human Rights Reader: Documents and Commentary, 1900–2000*, ed. Stephen C. Angle and Marina Svensson (Armonk, N.Y., 2001), pp. 207–8.

57. Likewise, Jeffrey N. Wasserstrom makes a compelling argument about the need to shift the emphasis from the term *rights* in human rights to a reconceptualization of the human because this shift in perspective will lead to a better understanding of the UDHR and its relationship to revolutionary regimes, such as the PRC. I support his call and wish to add that, for the same reason, Chang had urged such a shift during the drafting process. See Jeffrey N.

cation suggests a very different understanding of human rights from how Cassin or Malik conceived of the idea. In his statement during one of the General Assembly debates, Chang pointed out that “the aim of the United Nations was not to ensure the selfish gains of the individual but to try and increase man’s moral stature. It was necessary to proclaim the duties of the individual, for it was a consciousness of his duties which enabled man to reach a high moral standard.”⁵⁸

Unfortunately, no equivalents of the classical Confucian concept *ren* could be discovered in English or French to help Chang explicate the meaning of this important idea to those who were not familiar with this millennia-long philosophical tradition in China. That tradition produced an overabundant discourse on the concept of human, its moral being, and so on, but had very little to say about rights until the second half of the nineteenth century.⁵⁹ Chang, straddling both traditions, found himself in a strange, precarious situation of having to adopt misleading English equivalents like “‘sympathy’ or ‘consciousness of his fellow men’” to convey what he had in mind.⁶⁰ That effort misfired, and it certainly fell flat on Cassin, Roosevelt, and the other members of the drafting committee who accepted Chang’s proposal but agreed to let the word *conscience* stand for the character *ren*. The term *conscience* was promptly juxtaposed with *reason* to make the second line of article 1 read: “‘They are endowed with reason and conscience.’” With ample hindsight, Glendon writes: “that unhappy word choice not only obscured Chang’s meaning, but gave ‘con-

Wasserstrom, “The Chinese Revolution and Contemporary Paradoxes,” *Human Rights and Revolutions*, ed. Wasserstrom et al. (Lanham, Md., 2007), pp. 36–38.

58. Third Social and Humanitarian Committee of the UN General Assembly, “Draft International Declaration of Human Rights (E/800) (continued),” 6 Oct. 1948, ninety-fifth meeting, summary records, *Official Records of the Third Session of the General Assembly*, p. 87.

59. The language of human rights was first introduced to China through the 1864 translation of *Elements of International Law* by Wheaton along with that of sovereign rights. When American missionary and translator W. A. P. Martin and his Chinese collaborators translated this text, they coined the neologism *quanli* to render *right*. The written character *quan* “commands a broad spectrum of meanings associated with ‘power,’ ‘privilege,’ and ‘domination’ . . . much as the word *li* brings to mind ‘interest,’ ‘profit,’ and ‘calculation.’” Keeping in mind how *rights* and *human rights* entered the political discourse of modern China, the excess meanings capture the historical enunciation of rights discourse in the expansion of the British Empire and other European nations that asserted their trade rights and the right to exploit China in the unequal treaties they signed with the Qing government (Liu, *The Clash of Empires*, p. 131).

60. Drafting committee of the UN Commission on Human Rights, 20 June 1947, eighth meeting, first session, summary record, p. 2, daccess-dds-ny.un.org/doc/UNDOC/GEN/NG9/001/13/PDF/NG900113.pdf?OpenElement

science' a far from obvious sense, quite different from its normal usage in phrases such as 'freedom of conscience'" (W, pp. 67–68).

But the miracle is that all was not lost in translation. The movement of universalism works in strange ways and can sometimes take us by surprise. As soon as we turn to the Chinese version of the UDHR prepared by the United Nations, we will discover that the Confucian concept has worked its way back into the document through the delegation of another term, *liangxin*.⁶¹ This concept is made up of two characters, 良 (*liang*) for "innate goodness" and 心 (*xin*) for "mind/heart;" thus, the term *liangxin* openly takes the place of *conscience* and reinterprets the English word back into Chang's classical term *ren* to communicate a more fundamental sense of what makes a human being moral than the idea of either conscience or sympathy. Through its close association with *ren* in Confucian moral philosophy, the concept *liangxin* leads us back to the plural given of human moral existence—that is, one human being plus another—fundamental to the formation of the individual psyche.⁶² Though completely lost to the English and French versions, Chang's original explication of *ren* as "two-men-mindedness"—or "the plural human" in my own explication of the written character—is regained through an associated concept in the Chinese version of the UDHR.

Moreover, let us not forget that at the time the text of the UDHR was adopted by the United Nations in 1948, it existed in multiple languages, and today it is available in 389 languages!⁶³ Many of these languages have contributed to the universalizing of the document, each translation carrying the text—in a mode not to be predicted by the 1947 letter of the American Anthropological Association—across the vast linguistic networks of historical and philosophical associations specific to its own intellectual

61. See *Shijie renquan xuanyan* (The Universal Declaration of Human Rights, 1948), trans. pub., www.un.org/zh/documents/udhr/

62. The notion *liangxin* was first elaborated by the ancient Chinese philosopher Mencius (ca372–ca289 BCE) to explicate Confucius's concept *ren*. In *Mencius*, *ren* or *renyi* and *liangxin* are mentioned in a passage from "Gaozi I": "Can it be asserted that the mind of any man is not formed by *ren* and *yi* [justice]? The way in which a man loses his *liangxin* [innate goodness] is like the way in which the trees are denuded by axes" (my translation is based on Mengzi, *Mengzi yizhu* [Mencius Translated and Annotated], ed. Yang Bojun [Beijing, Zhonghua shuju, 1988], p. 263). The relationship between *ren* and *liangxin* was subsequently elaborated by Song dynasty philosophers to develop a neo-Confucian theory of moral personhood.

63. English and French were initially the working languages of the UN, but soon Russian, Chinese, Arabic, and Spanish were also added, a situation that makes the linguistic landscape extremely variegated. As for the Chinese version of the UDHR, I have not been able to determine whether Chang was involved in this particular translation. The substitution of *liangxin* for *ren* may also be due to the fact that the Chinese word for *conscience* was an established translation on top of the fact that a bisyllabic word is always preferable to a single character in modern Chinese usage.

tradition. Like the secularizing of article 1 we have examined above, the exposure of this document to the radical multiplicity and translingual plurality of the philosophies and cultures of the world in both its moment of genesis and in its subsequent multilingual reiterations is by no means a trivial textual event. What we have witnessed is a universalizing process that may well represent a milestone in the history of human thought.

In the Wake of Political Pluralism

In her autobiography, Roosevelt retells the story we encountered in Humphrey's recollection of the first moment of the UN Commission on Human Rights. Roosevelt recalls:

Dr. Chang was a pluralist and held forth in charming fashion on the proposition that there is more than one kind of ultimate reality. The Declaration, he said, should reflect more than simply Western ideas and Dr. Humphrey would have to be eclectic in his approach. His remark, though addressed to Dr. Humphrey, was really directed at Dr. Malik, from whom it drew a prompt retort as he expounded at some length the philosophy of Thomas Aquinas. Dr. Humphrey joined enthusiastically in the discussion, and I remember that at one point Dr. Chang suggested that the Secretariat might well spend a few months studying the fundamentals of Confucianism! By that time I could not follow them, so lofty the conversation had become, so I simply filled the teacups again and sat back to be entertained by the talk of these learned gentlemen.⁶⁴

Roosevelt had good reason to be entertained by the abstract talk of these men and their verbal sparring. Her own generosity and open-mindedness are amply illustrated by her silent but astute observations of each guest in her apartment. She calls Chang a pluralist and seems drawn to the idea of there being more than one kind of ultimate reality. I agree that Chang was a pluralist, but there is more to his pluralism than meets the eye. In the interwar years, the discussion of pluralism in political theory became widely disseminated through the works of G. D. H. Cole, Harold Laski, and other leading members of the British Fabian Society. Laski's *Grammar of Politics* was translated and discussed by Chinese scholars as early as the twenties and thirties and some of that discussion appeared in a journal associated with the literary circle called Crescent Moon, of which Chang was a founding member. He was part of a vibrant intellectual network with

64. Eleanor Roosevelt, *The Autobiography of Eleanor Roosevelt* (New York, 1992), p. 317.

numerous connecting points to Tianjin, Beijing, Shanghai, New York, London, and beyond.

I should emphasize that even though Chang's philosophical outlook may be Confucian, his work should not be judged on that ground alone.⁶⁵ He was one of those Chinese intellectuals who sought to *reinvent* Confucianism (and Buddhism) by refashioning universals in conversation with modern European, American, Indian, and other great philosophical traditions of the world. Chang's understanding of *ren* may even have been inspired by the revolutionary martyr Tan Sitong, whose influential *Ren xue* (A Study of the Plural Human) opens with a paleographic explication of *ren* as "two-man-mindedness" (Chang's translation) or "the plural human" (my translation).⁶⁶ At the dawn of the Chinese revolution, Tan's philosophical treatise advanced the bold claim that *ren* governed human moral existence and, furthermore, treated it as the universal principle of the cosmos. This interpretation aimed to rejuvenate the ancient philosophical traditions of China by making them relevant to modern scientific discoveries, and his method anticipated the work that Chang himself would pursue at the UN several decades later.

Nor were Tan and Chang alone in that endeavor. Kung Chuan Hsiao, one of the eminent political theorists in modern China, published the influential book *Political Pluralism* in 1927, in which he carefully examined and critiqued the ideas of Laski and other theorists of political pluralism on issues of law, sovereignty, politics, and the state.⁶⁷ Luo Longji, who received his doctoral degree in political science from Columbia University in 1928, became a prominent human rights activist in the Republic of China. He published his famous polemics on human rights in *Crescent Moon* in 1929–30 to protest the repressive policies of the Nationalist (GMT) government.⁶⁸ Svensson's analysis of Luo's concept of human rights and his

65. This seems to be the tendency of Twiss's otherwise brilliant study of Chang's Confucian contributions to the text of the declaration.

66. Tan's paleographic reading similarly derived from the *Shuowen jiezi* I mentioned in footnote 55.

67. I cannot do justice to Hsiao's contribution here—something I hope to do in the future—except to mention, very briefly, that when Carl Schmitt attacked the Anglo-Saxon school of political pluralism prevalent in his time and in particular Laski, he cites Hsiao's work as one of the representative texts in the liberal theories of political pluralism; see Carl Schmitt, *The Concept of the Political*, trans. George Schwab (1996; Chicago, 2007). Hsiao had studied in the United States, obtained his doctoral degree at Cornell University, and, before the war, taught at Yenching University and Tsinghua University. Chang served as dean of academic affairs at Tsinghua University in 1924–1926 to oversee the restructuring of educational and research programs, but his term did not exactly overlap with Hsiao's teaching appointment. Still, the two men would have known each other through the network of overseas Chinese alumni.

68. The journal *Crescent Moon* was named after Chang's newborn daughter.

dialogue with Laski suggests that the debates among Chinese liberals, radicals, Marxists, and GMT theorists on human rights, people's rights, and the drafting of the constitution were extensively developed between 1927 and the outbreak of World War II.⁶⁹ These activist movements led to the formation of the China League for the Protection of Civil Rights in 1932. In short, Chang had been steeped in the theories and political activism of human rights before he embarked on his diplomatic career in 1940.⁷⁰ His deep understanding of China and the underdeveloped areas of the world formed the background to many of the ideas and proposals he put forward at the UN. For example, he urged the UN to adopt a different attitude to the postwar world order:

We must learn to envisage the world as a whole, giving due consideration to the economically less developed area not only because of the huge populations and potential resources, not only because they supply the raw materials and furnish the markets for the manufactured goods of the industrialized countries, but also because they serve as the meeting places for conflicts and contentions of the industrialized powers. It is in these economically "low-pressure" areas that we can detect and delineate the shape of things to come in international struggles, actual and potential.⁷¹

Chang could not have made this speech if he had not been convinced that the discursive struggle over competing universals at the UN Economic and Social Council was also a vital part of the international struggles he saw. And he would not have acted the way he did on the UN Commission on Human Rights had he not wanted to affect the actual and potential shape of things to come. With the hindsight of many decades, that discursive struggle has not ceased to evolve and impact the world. It is now up to us and future generations to make sure that the kind of universals Chang and others brought to the drafting table of the UDHR do not lapse into a new

69. See Svensson, *Debating Human Rights in China: A Conceptual and Political History* (Lanham, Md., 2002), pp. 159–86. See also Wasserstrom's critique of the simplistic kneejerk reactions to the abuses of human rights in China in "The Chinese Revolution and Contemporary Paradoxes," pp. 22–44.

70. For further discussion of human rights in China before and after World War II, see Angle, *Human Rights in Chinese Thought: A Cross-Cultural Inquiry* (Cambridge, 2002) and *The Chinese Human Rights Reader*. Douglas Howland's analysis of political activism in Meiji Japan, centering on human rights and people's rights, adds a further dimension to this global picture. See Douglas Howland, *Translating the West: Language and Political Reason in Nineteenth-Century Japan* (Honolulu, 2001).

71. Chang, "World Significance of Economically 'Low-Pressure' Areas," a speech at a meeting of the second session of the Economic and Social Council in New York, 4 June 1946; rpt. in *Peng Chun Chang, 1892–1957*, p. 151.

standard of civilization. And it is up to us and future generations to determine how we are going to make sense of the plurality and openness of this universal text. Let me conclude with the words of Du Bois, whose reflections on the African liberation movements speak powerfully to the future potential of the UDHR:

What has been accomplished? This: we have kept a vision alive; we have held to a great ideal. We have established a continuity and some day when unity and co-operation come, the importance of these earlier steps will be recognized.⁷²

72. W. E. B. Du Bois, "Opinion," *The Crisis* 27 (Dec. 1923): 59.